

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ALYSSON MILLS, IN HER CAPACITY
AS RECEIVER FOR ARTHUR LAMAR
ADAMS AND MADISON TIMBER
PROPERTIES, LLC,

Plaintiff,

v.

MICHAEL D. BILLINGS and
MDB GROUP, LLC;
TERRY WAYNE KELLY, JR. and
KELLY MANAGEMENT, LLC;
and WILLIAM B. MCHENRY, JR. and
FIRST SOUTH INVESTMENTS, LLC,

Defendants.

Case No. _____

Arising out of Case No. 3:18-cv-252,
Securities and Exchange Commission v.
Arthur Lamar Adams and Madison Timber
Properties, LLC

Hon. Carlton W. Reeves, District Judge

**MOTION FOR ENTRY OF SCHEDULING ORDER
FOR SUMMARY PROCEEDINGS**

Plaintiff Alysson Mills, in her capacity as the court-appointed receiver for Arthur Lamar Adams and Madison Timber Properties, LLC (the “Receiver”), through undersigned counsel, respectfully files this Motion for Entry of Scheduling Order for Summary Proceedings and states as follows:

1.

The Receiver has this day filed a complaint against Defendants Michael D. Billings and MDB Group, LLC; Terry Wayne Kelly, Jr. and Kelly Management, LLC; and William B. McHenry, Jr. and First South Investments, LLC that seeks to recover “commissions” Defendants received from Arthur Lamar Adams and Madison Timber Properties, LLC.

2.

The Receiver's objective is to maximize funds available for distributions to victims, and she is mindful that litigation is expensive. In the interests of all, the Receiver desires to resolve her claims against Defendants with minimal time and expense to the receivership estate, Defendants, and the Court.

3.

The Fifth Circuit has approved a "summary judgment type procedure" for the litigation of a receiver's claims to assets in the possession of third parties. *See SEC v. Sharp Capital, Inc.*, 315 F.3d 541, 545 (5th Cir. 2003). *See also SEC v. Bjork*, No. 11-2830, 2012 WL 1392082 (S.D. Tex. Apr. 19, 2012) (unpublished); *SEC v. Millennium Bank*, No. 09-50, 2009 WL 10689053 (N.D. Tex. July 21, 2009) (unpublished). "[S]ummary proceedings are appropriate and proper to protect equity receivership assets," *United States v. Ariz. Fuels Corp.*, 739 F.2d 455, 458 (9th Cir. 1984), and are "within the broad powers and wide discretion the district court enjoys to adjudicate relief in an equity receivership proceeding," *Sharp Capital, Inc.*, 315 F.3d at 545.

4.

Defendants Terry Wayne Kelly, Jr. and Kelly Management, LLC; and William B. McHenry, Jr. and First South Investments, LLC already consent to the use of summary proceedings if necessary to resolve the Receiver's claims to "commissions" in their possession.

5.

Andy Taggart, counsel for Defendants Michael D. Billings ("Billings") and MDB Group, LLC ("MDB Group"), advises that Billings and MDB Group do not consent to the use of summary proceedings to resolve the Receiver's claims to "commissions" in their possession. The Receiver

thus files this motion and accompanying memorandum, requesting that the Court separately enter as to Billings and MDB Group the attached proposed Scheduling Order for Summary Proceedings.

WHEREFORE, the Receiver respectfully submits the attached proposed Scheduling Order for Summary Proceedings for the Court's consideration.

October 1, 2018

Respectfully submitted,

/s/ Lilli Evans Bass

BROWN BASS & JETER, PLLC
Lilli Evans Bass, Miss. Bar No. 102896
1755 Lelia Drive, Suite 400
Jackson, Mississippi 39216
Tel: 601-487-8448
Fax: 601-510-9934
bass@bbjlawyers.com
Receiver's counsel

/s/ Brent B. Barriere

FISHMAN HAYGOOD, LLP
Motions for admission pro hac vice forthcoming
Brent B. Barriere, *Primary Counsel*
Jason W. Burge
Kristen D. Amond
Rebekka C. Veith
201 St. Charles Avenue, Suite 4600
New Orleans, Louisiana 70170
Tel: 504-586-5253
Fax: 504-586-5250
bbarriere@fishmanhaygood.com
jburge@fishmanhaygood.com
kamond@fishmanhaygood.com
rveith@fishmanhaygood.com
Receiver's counsel